

Please find below the Regence comments to the recent draft ORSA and Holding Company model act draft proposals. Our apologies for being late in submitting these comments, but we certainly do want to continue to be a part of this collaborative process.

We do not have any major comments or concerns with the ORSA model act, except to express what most in our industry are expressing – it overlaps with the risk assessment required in the new model holding company act (“Form F”).

We have just two primary concerns with the holding company act and regulation changes:

- Confidentiality. In a couple of places, the OIC has proposed removal of model language around confidentiality. For instance, see Section (3)(1)(b), relating to divestiture of a controlling interest in an insurer, and Section 4(3), relating to pre-acquisition notice. We’re comfortable with the proposed approach because OIC intends to hold confidential those provisions of any filing that a carrier marks as confidential pursuant to Washington law. This is set forth in a new OIC section 8 added to the model regulations. However, that section implies that even information in the enterprise risk report (Form F) is not confidential unless so marked. But the model act, Section 9(1) states that information filed pursuant to Section 5(12) – the enterprise risk report – is considered confidential and not subject to public disclosure.
 - Action: We request that the OIC clarify its new model regulation section 8 either to (1) cross-reference Section 9(1) of the law (such as “unless otherwise set forth in Section 9(1)”; or (2) to remove Form F from the list.
- Stay of action pending appeals. OIC changed Section 15(2) (relating to appeals) to state that filing an appeal does not stay any Commissioner rule or order, but then says “except as set forth in the Administrative Procedure Act, Chapter 34.05 RCW.” In that Act, RCW 34.05.467, it states that any appeal filed within 10 days of agency action stays that action “unless otherwise set forth in statute.” We feel the two provisions conflict. We are unclear of the OIC intent, but if it intends for its orders to never be stayed then this is a “take away” from the current holding company statute, which cross-references RCW 48.04, which (in RCW 48.04.020) lets a Commissioner’s order to be stayed if it is appealed prior to its effective date.
 - Action. Assuming our interpretation of OIC intent is correct, we request that language be added to ensure that filing an appeal can stay the Commissioner’s orders at least to the extent allowed today.

Again, we apologize for the delay in providing these comments. Please don’t hesitate to follow-up with any questions. We look forward to continuing this stakeholder work to ensure that all are comfortable with the legislation put forth in 2014.

Thanks.

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